

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LUDA CHRISTINE HAYWARD)	
LEFORGE,)	
)	
Plaintiff,)	
)	1:11-cv-00526-RLY-DKL
vs.)	
)	
FEIWELL & HANNOY, P.C.,)	
)	
Defendant.)	

ENTRY ON DEFENDANT’S MOTION TO RECONSIDER

Defendant, Feiwell & Hannoy, P.C. (“F&H”), asks the court to reconsider its Entry on Defendant’s Motion in Limine (Filing No. 128). In that order, the court ordered F&H to amend its answer to reflect the bona fide error affirmative defense. The court inadvertently misread F&H’s prior answer, which did include the bona fide error. Therefore, the court **GRANTS** the motion to reconsider (Filing No. 130) and vacates its order to amend the answer.

Additionally, F&H asks the court to revisit its rulings on matter numbers 6 and 7 in the motion in limine. Matter 6 sought to preclude the LeForge from introducing “any evidence, testimony, or argument that the defendant’s alleged violation of the FDCPA was intentional.” Matter 7 sought to preclude “any evidence, testimony, or argument that the defendant’s alleged violation of the FDCPA did not result from a bona fide error.” F&H argues that these matters were determined by the court’s summary judgment entry and thus are not at issue in the present case. LeForge responds that the bona fide error

defense was not properly before the court at the summary judgment stage and therefore F&H should have to prove each element.

LeForge proceeded *pro se* at the summary judgment stage of this matter, and as such, the court finds that it would be inequitable to hold her to the determinations of fact on issues not raised by F&H in their motion for summary judgment. Under Rule 56, the court may treat such facts as undisputed for that stage, but not at the trial stage. The court finds that it is the best approach, and as such, F&H must prove these elements of the bona fide error defense at trial. Therefore, although Defendant's motion to reconsider (Filing No. 130) is **GRANTED**, the court finds that Defendant's motion in limine for matter numbers 6 and 7 is **DENIED**.

SO ORDERED this 14th day of November 2014.

A handwritten signature in blue ink, appearing to read 'R. Young', is written over a horizontal line.

RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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